CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 89372 OF 2014

[Arising out of Order-in-Appeal No: MUM-CUSTOM-PRV-APP-192 & 193/14-15 dated 26th June 2014 passed by the Commissioner of Customs (Appeals), Mumbai – III.]

Century Textiles & Industries Ltd
Industry House, 159 Churchgate Reclamation
Mumbai - 400020 … ***Appellant***

versus

Commissioner of Customs (Preventive)
New Customs House, Ballard Estate, Mumbai - 400001 ***…Respondent***

APPEARANCE:

Shri Ananta Khandait, Advocate for the appellant

Shri Piyush Bheda, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85642/2024

DATE OF HEARING: 06/06/2024
DATE OF DECISION: 06/06/2024

PER: C J MATHEW

M/s Century Textiles & Industries Ltd is before us challenging order[1] of Commissioner of Customs (Appeals), Mumbai – III, arising from finalization of bills of entry for import of 'bright yellow sulphur crude in bulk' claiming benefit of notification no. 21/2002-Cus dated 1st March 2002 (sr. no. 60) that were assessed provisionally pending submission of documents, furnishing information and results of testing as concessional rate of duty was available only to 'crude or unrefined sulphur'; with challenge to legality of finalization in writ proceedings before Hon'ble High Court of Bombay, these were remanded to original authority and conclusion of proceedings thereafter, the appellant was held as liable to pay differential duty of ₹ 1,95,53,640/- which was challenged before the first appellate authority who set aside the finalization with direction that the importer be furnished with details and materials on which the finalization is based. The appellant is before us disputing the issue on merits as well as the authority of the Commissioner of Customs (Appeals) to remand for fresh decision.

2. Learned Counsel for appellant submits that appeal filed against the impugned order before the Tribunal by the Commissioner of Customs challenging the authority to remand had been disposed off in order[2] remitting the issue back to the original authority. It is further intimated by Learned Counsel that the original authority, in finalizing the assessment of bills of entry thereafter, dropped the demand of

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[1] [order-in-appeal no. MUM-CUSTOM-PRV-APP-192 & 193/14-15 dated 26th June 2014]

[2] [no. A/91173-91365/2017 DATED 29th November 2017]

differential duty against which the Commissioner of Customs was in appeal before the first appellate authority.

3. In view of the jurisdiction not being in dispute any more but demand subject to outcome of the appeal before the first appellate authority and merit of which was not decided by first appellate authority, it would be appropriate for the impugned order to be set aside and remitted to original authority for fresh decision.

4. The appeal is accordingly disposed off.

(Operative part of the order pronounced in the open court on 6th June 2024)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*